UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS VICTORIA DIVISION

STATE OF TEXAS, STATE OF LOUISIANA)))
Plaintiffs, v.)) No. 6:21-cv-00016
UNITED STATES OF AMERICA, et al.)
Defendants.)))

NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants submit this Notice of Supplemental Authority to advise the Court of the district court's decision in *Arizona*, et al. v. DHS, et al., No. 21-186, Dkt. No. 113 (D. Az. Aug. 12, 2021), denying Arizona's and Montana's motion for reconsideration of the Court's dismissal of their challenge to the immigration enforcement guidance also at issue here. See attached (Ex. A). The *Arizona* Court rejected Arizona's and Montana's contention that the Supreme Court's recent decision in *Johnson v. Guzman Chavez*, 141 S. Ct. 2271 (2021), changed its analysis "that the Interim Guidance's prioritization scheme is agency action committed to agency discretion by law and is therefore unreviewable under the APA." See Ex. A at 2; see also id. at 4-5. Previously, Arizona and Montana sought an injunction pending appeal in the Ninth Circuit but that Court denied their request "without prejudice to renewal following the district court's decision on the pending motion for reconsideration." See attached (Ex. B). Arizona and Montana have now renewed their request following the district court's denial.

Date: August 18, 2021 Respectfully submitted.

BRIAN M. BOYNTON Acting Assistant Attorney General

BRIGHAM J. BOWEN

Assistant Branch Director

/s/ Adam Kirschner

ADAM D. KIRSCHNER

Attorney-in-charge

IL Bar. No. 6286601

Senior Trial Counsel

BRIAN C. ROSEN-SHAUD

ME Bar No. 006018

MICHAEL F. KNAPP

CA Bar No. 314104

KUNTAL CHOLERA

DC Bar No. 1031523

Trial Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

Tel: (202) 353-9265

Fax: (202) 616-8460

Email: Adam.Kirschner@usdoj.gov Brian.C.Rosen-Shaud@usdoj.gov

Michael.F.Knapp@usdoj.gov Kuntal.Cholera@usdoj.gov

Mailing Address:

Post Office Box 883

Washington, D.C. 20044

Courier Address

1100 L Street NW, Room 11020

Washington, D.C. 20005

EREZ REUVENI

CA Bar No. 264124

Assistant Director

U.S. Department of Justice

Civil Division, Office of Immigration Litigation

P.O. Box 868, Ben Franklin Station

Washington, D.C. 20044

202-307-4293 (telephone)

Email: Erez.R.Reuveni@usdoj.gov

Counsel for Defendants

DANIEL DAVID HU

Assistant United States Attorney

Chief, Civil Division

State Bar No. 10131415 S.D. I.D. 7959 Southern District of Texas 1000 Louisiana, Suite 2300 Houston, TX 77002 Tel: (713) 567-9000

Fax: (713) 718-3300 Daniel.Hu@usdoj.gov

Local Counsel

CERTIFICATE OF COMPLIANCE

I certify that the total number of words in this motion, exclusive of the matters designated for omission, is 171, as counted by Microsoft Word.

/s/ Adam Kirschner ADAM D. KIRSCHNER

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on August 18, 2021.

/s/ Adam Kirschner ADAM D. KIRSCHNER